

## REMARKS

Claims 21-22, 24-30, and 32-26 are pending in the present application.

Reexamination of the application and reconsideration of the rejections and objections are respectfully requested in view of the above amendments and the following remarks, which follow the order set forth in the Office Action.

### I. Claim Rejections Under 35 U.S.C. § 103

Claims 21-22, 24-30, and 32-36 remain rejected under 35 U.S.C. § 103 as allegedly obvious over Patel et al (WO 01/37808), in view of Jones (Veterinary Pharmacology & Therapeutics, pages 832-834, and 843, 1957)), or Friedman (U.S. Patent No. 3,824,233), or Malnoe et al. (WO 02/071874), or Alford (U.S. Patent No. 3,937,825).

The Office argues that “Patel & Jones or Friedman show the instant masked drug in pellet or tablet but not specifically with animal feed.” *Office Action Mailed November 20, 2006*, at page 2. The Office goes on to argue that “the secondary references show it is common to mix drugs in feed to treat animals.” *Id.* The Office concludes that “[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made, desiring to utilize masked compositions, to use one of those well known in the art, as exemplified by the primary references, with selection of the active as required at concentration effective to control the pest or disease of concern.” *Id.* at page 3. Applicants respectfully disagree for at least the following reasons.

To establish a *prima facie* case of obviousness, the Office Action must (1) determine the scope and content of the prior art; (2) ascertain the differences between the claimed invention and the prior art; and (3) resolve the level of ordinary skill in the pertinent art. MPEP § 2141. Once these factual inquiries are resolved, the Office must determine whether the claimed invention would have been obvious to a skilled artisan. The Office Action must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. “[R]ejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” MPEP § 2142 (Citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) and *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, \_\_\_, 82 USPQ2d 1385, 1396 (2007)). The MPEP makes clear that “[t]he key to supporting any rejection under 35 U.S.C. § 103 is the

clear articulation of the reason(s) why the claimed invention would have been obvious.”  
MPEP § 2142.

The Office Action does not provide any support for the proposition that the skilled artisan would be motivated to combine and/or modify the teachings of the cited references to arrive at the claimed animal medicine in a tablet or pellet form. The claims are directed to animal medicines in pellet or tablet form comprising a substrate of animal feed and coated particles. As the specification discusses, the use of the coated particles protects the active ingredient from degradation during processing into animal feed. In addition, the tablets or pellets provide for greater stability of the active ingredient during prolonged periods of storage. *See, e.g., Specification*, at pages 3-4. Moreover, the tablets and pellets mixed with feed allow for the controlled administration of dosages to animals on a daily basis based on the amount of feed ingested. The Office has not shown that any of the cited references disclose or even suggest the use of coated particles containing an active ingredient, where the coated particles are mixed with an animal feed and formed into a tablet or pellet.

In addition, the Final Office Action, or any other action, fails to provide any explicit reasoning to combine and/or modify the five cited references to arrive at the claimed animal medicine in a tablet or pellet form. Even assuming, *arguendo*, that the references disclose the all of the features of the claimed medicines as the Office alleges, none of the Office Actions set forth any explanation as to why such combinations would have been obvious. The Office Action Dated November 20, 2006 merely states that “[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made, desiring to utilize masked compositions, to use one of those well known in the art, as exemplified by the primary references, with selection of the active as required at concentration effective to control the pest or disease of concern.” The Final Action provides no additional reasoning for combining the references. No reasoning has been explicitly set forth in the Final Action or any other Action to show that the claimed invention was obvious. As such, the Office has not set forth a *prima facie* case of obviousness.

For the foregoing reasons, claims 21-22, 24-30, and 32-26 are considered allowable. A Notice to this effect is respectfully requested. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

Respectfully submitted,

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